THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.21782 OF 2005

DATED:6.10.2005

Between:

Sri M.Siva Prasad

…Petitioner

And

The District Collector & Magistrate, Kurnool

Kurnool District and others

…Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.21782 OF 2005

ORDER:

The petitioner is resident of Kurnool Town. He resides near Sai Baba Temple, Fort, Kurnool. He filed a writ petition being W.P.No.11080 of 2002 seeking a Writ of Mandamus declaring the inaction on the part of the District Collector and Commissioner, Kurnool Municipal Corporation (KMC) in not taking action against third respondent, who allegedly occupied public road and constructed building thereon, as illegal and arbitrary. By order dt.25.6.2002, this Court disposed of the Writ Petition directing the respondents 1 and 2 herein to consider the representations dt.14.7.2001 and 28.7.2001. This Court also observed that if there is any encroachment made on the public road, the KMC has to follow the procedure contemplated under the A.P.Municipal Corporations Act, 1994 to remove the

encroachment. In obedience thereto, the matter was considered by KMC, who passed the order/endorsement dt.25.10.2002 to the effect that as per the Street Survey and Revenue Records thee is no public road/pathway passing through S.No.33 of Kurnool and the same is classified as patta land as per the revenue records. The endorsement of the KMC dt.25.10.2002 is now challenged in this Writ Petition.

I have heard the learned counsel for the petitioner and the learned Standing Counsel for KMC. The Writ Petition is devoid of any merit and cannot be entertained. First, though the second respondent passed orders/endorsement on 25.10.2002, in obedience to the orders of this Court dt.25.6.2002, the petitioner has approached this Court almost after three years. The delay and laches in approaching this Court are not explained properly. Secondly, a reading of the impugned order would show that in 1989 third respondent applied to the then Kurnool Municipality for permission for construction of Prardhana Mandiram in S.No.33 near Sai Baba Temple. As required under Rule 5(3) of the Building Rules under A.P.Municipalities Act, 1965, the matter was referred to the District Collector. After obtaining opinion of the Deputy Superintendent of Police and the Revenue Divisional Officer, Kurnool, the District Collector in proceedings dt.20.7.1992 accorded no objection for making construction of prayer hall in S.No.33 based on which the proposals were submitted to the Director of Town Planning. After obtaining necessary permission from him, building plans were approved by the Kurnool Municipality on 9.3.1994 and the construction was completed. There is no attempt made by the petitioner to disprove these contents. Further, when the construction was already completed in 1994 he chose to file the Writ Petition initially in 2002 being W.P.No.11080 of 2002. This Court disposed of the same directing the KMC to pass appropriate orders on the representations. When such orders were passed on 25.10.2002, present Writ Petition is filed after three years. At this point of time, therefore, Writ Petition cannot be entertained.

The Writ Petition is accordingly dismissed. No costs.

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(V.V.S.RAO, J)

6.10.2005

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